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BLAKELY SOKOLOFF TAYLOR & ZAFMAN
12400 WILSHIRE BOULEVARD, SEVENTH FLOOR
LOS ANGELES, CA 90025

EXAMINER

NGUYEN, TOAN D

ART UNIT	PAPER NUMBER
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2665

DATE MAILED: 10/07/2003

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Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/823,459

Applicant(s)

ADAMS ET AL.

Examiner

Toan D Nguyen

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 04 August 2003.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-3 and 5-28 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-3 and 5-28 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____.
- 4) ☐ Interview Summary (PTO-413) Paper No(s). _____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____.

DETAILED ACTION

Claim Rejections - 35 USC § 102

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

2. Claims 1-2, 5-6, 16, 18, 20-21, 25 and 27 are rejected under 35 U.S.C. 102(e) as being anticipated by Miriyala (U.S. Patent 6,618,377 B1).

For claim 1, Miriyala discloses flexible scheduling of network devices within redundant aggregate configurations, comprising:

receiving a packet at a network node (figure 1B, col. 3 lines 48-50);

determining whether said packet requires advanced routing services (col. 3 lines 50-52);

and

sending said packet to an advanced routing services provider (col. 3 lines 52-56).

For claim 2, Miriyala discloses wherein said sending is performed over a virtual connection (col. 3 lines 60-63).

For claim 5, Miriyala discloses flexible scheduling of network devices within redundant aggregate configurations, comprising:

receiving a packet at a network node (figure 1B, col. 3 lines 48-50);

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determining whether said packet requires advanced routing services (col. 3 lines 50-52);
sending a request for advanced routing information to an advanced routing services provider
(col. 3 lines 52-56).

receiving said advanced routing information (col. 3 lines 56-63); and

routing said packet using said advanced routing information (col. 3 lines 56-65).

For claim 6, Miriyala discloses wherein said sending is performed over a virtual
connection (col. 3 lines 60-63).

For claim 16, Miriyala discloses flexible scheduling of network devices within redundant
aggregate configurations, comprising:

receiving a request for an advanced network service for a packet from an intermediate
node over a first virtual connection (figure 1B, col. 3 lines 48-60);

performing said advanced network service for said packet (col. 3 lines 56-60); and

sending said packet over a second virtual connection (col. 3 lines 60-65).

For claim 18, Miriyala discloses flexible scheduling of network devices within redundant
aggregate configurations, comprising:

a storage medium (figure 10A, col. 14 lines 21-46);

said storage medium including stored instructions that, when executed by a processor
(col. 14 lines 21-28), result in performing routing in a network by receiving a packet at a network
node (figure 1B, col. 3 lines 48-50), determining whether said packet requires advanced routing
services (col. 3 lines 50-52), and sending said packet to an advanced routing services provider
(col. 3 lines 52-56).

For claim 20, Miriyala discloses wherein the stored instructions, when executed by a

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processor (col. 14 lines 21-28), further result in receiving said packet with advanced routing information (figure 1B, col. 3 lines 48-50), and sending said packet to another network node using said advanced routing information (col. 3 lines 52-56).

For claim 21, Miriyala discloses flexible scheduling of network devices within redundant aggregate configurations, comprising:

a storage medium (figure 10A, col. 14 lines 21-46);

said storage medium including stored instructions that, when executed by a processor (col. 14 lines 21-28), result in performing routing in a network by receiving a packet at a network node (figure 1B, col. 3 lines 48-50), determining whether said packet requires advanced routing services (col. 3 lines 50-52), sending a request for advanced routing information to an advanced routing services provider, receiving said advanced routing information, and routing said packet using said advanced routing information (figure 1b, col. 3 lines 32-65).

For claim 25, Miriyala discloses flexible scheduling of network devices within redundant aggregate configurations, comprising:

receiving a packet at a network node (figure 1B, col. 3 lines 48-50);

determining whether said packet requires advanced routing services (col. 3 lines 50-52);

and

sending said packet to an advanced routing services provider (col. 3 lines 52-56).

For claim 27, Miriyala discloses flexible scheduling of network devices within redundant aggregate configurations, comprising:

a storage medium (figure 10A, col. 14 lines 21-46);

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said storage medium including stored instructions that, when executed by a processor (col. 14 lines 21-28), result in performing advanced network services in a network by receiving a request for an advanced network service for a packet (figure 1B, col. 3 lines 48-50) from an intermediate node over a first virtual connection (figure 1B, col. 3 lines 48-60); performing said advanced network service for said packet (col. 3 lines 56-60); and sending said packet over a second virtual connection (col. 3 lines 60-65).

Claim Rejections - 35 USC § 103

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

5. Claims 3, 7, 17, 19, 22, 26 and 28 are rejected under 35 U.S.C. 103(a) as being unpatentable over Miriyala (U.S. Patent 6,618,377 B1) in view of Casey (U.S. Patent 6,493,349 B1).

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For claims 3, 7, 17, 19, 22, 26 and 28, Miriyala do not disclose wherein said virtual connection is secure. In an analogous art, Casey discloses wherein said virtual connection is secure (col. 2 lines 21-31). Casey discloses further wherein said first and second virtual connections are secure (col. 2 lines 21-31 as set forth in claim 17).

One skilled in the art would have recognized a VPN to use the teachings of Casey in the system of Miriyala. Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention, to use the VPN as taught by Casey in Miriyala's system with the motivation being to include a VPN identifier that is assigned to first and second routers (col. 2 lines 27-29).

6. Claims 8-9, 11-13, 15 and 23 are rejected under 35 U.S.C. 103(a) as being unpatentable over Miriyala (U.S. Patent 6,618,377 B1) in view of Acharya et al. (U.S. Patent 6,343,326 B2).

For claim 8, Miriyala discloses flexible scheduling of network devices within redundant aggregate configurations, comprising:

receiving a packet and a request for advanced routing information from an intermediate node (figure 1B, col. 3 lines 32-56);

retrieving advanced routing information corresponding to said packet classification; and routing said packet using said advanced routing information (figure 1B, col. 3 lines 56-65).

However, Miriyala do not disclose determining a packet classification for said packet. In an analogous art, Acharya et al. disclose determining a packet classification for said packet (figure 9, col. 11 lines 12-32). One skilled in the art would have recognized a packet classification to use the teachings of Acharya et al. in the system of Miriyala. Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention, to use the packet

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classification as taught by Acharya et al. in Miriyala's system with the motivation being to provide the IP protocol which can be executed on each ATM switch without any modification (col. 11 lines 25-26).

For claim 9, Miriyala discloses wherein said packet is received and routed using a virtual connection (col. 3 lines 60-63).

For claim 11, Miriyala discloses wherein said retrieving comprises retrieving said routing information from a routing table (col. 8 lines 43-56).

For claim 12, Miriyala discloses flexible scheduling of network devices within redundant aggregate configurations, comprising:

receiving a request for advanced routing information for a packet from an intermediate node (figure 1B, col. 3 lines 32-56);

retrieving advanced routing information corresponding to said packet classification; and sending said advanced routing information to said intermediate node (figure 1B, col. 3 lines 56-65).

However, Miriyala do not disclose determining a packet classification for said packet. In an analogous art, Acharya et al. disclose determining a packet classification for said packet (figure 9, col. 11 lines 12-32). One skilled in the art would have recognized a packet classification to use the teachings of Acharya et al. in the system of Miriyala. Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention, to use the packet classification as taught by Acharya et al. in Miriyala's system with the motivation being to provide the IP protocol which can be executed on each ATM switch without any modification (col. 11 lines 25-26).

For claim 13, Miriyala discloses wherein said packet is received and routed using a virtual connection (col. 3 lines 60-63).

For claim 15, Miriyala discloses wherein said retrieving comprises retrieving said routing information from a routing table (col. 8 lines 43-56).

For claim 23, Miriyala discloses flexible scheduling of network devices within redundant aggregate configurations, comprising:

a storage medium (figure 10A, col. 14 lines 21-46);

said storage medium including stored instructions that, when executed by a processor (col. 14 lines 21-28), result in performing routing in a network by receiving a packet and a request for advanced routing information from an intermediate node (figure 1B, col. 3 lines 48-50), retrieving advanced routing information corresponding to said packet classification; and routing said advanced routing information (figure 1B, col. 3 lines 56-65).

However, Miriyala do not disclose determining a packet classification for said packet. In an analogous art, Acharya et al. disclose determining a packet classification for said packet (figure 9, col. 11 lines 12-32). One skilled in the art would have recognized a packet classification to use the teachings of Acharya et al. in the system of Miriyala. Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention, to use the packet classification as taught by Acharya et al. in Miriyala's system with the motivation being to provide the IP protocol which can be executed on each ATM switch without any modification (col. 11 lines 25-26).

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7. Claims 10, 14 and 24 are rejected under 35 U.S.C. 103(a) as being unpatentable over Miriyala (U.S. Patent 6,618,377 B1) in view of Acharya et al. (U.S. Patent 6,343,326 B2) further in view of Casey (U.S. Patent 6,493,349 B1).

For claims 10, 14 and 24, Miriyala in view of Acharya et al. do not disclose wherein said virtual connection is secure. In an analogous art, Casey discloses wherein said virtual connection is secure (col. 2 lines 21-31). One skilled in the art would have recognized a VPN to use the teachings of Casey in the system of Miriyala. Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention, to use the VPN as taught by Casey in Miriyala's system with the motivation being to include a VPN identifier that is assigned to first and second routers (col. 2 lines 27-29).

Response to Arguments

8. Applicant's arguments with respect to claims 1-3 and 5-28 have been considered but are moot in view of the new ground(s) of rejection.

Contact Information

9. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Toan D Nguyen whose telephone number is 703-305-0140. The examiner can normally be reached on Monday- Friday (7:00AM-4:30PM).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Mr. Huy Vu can be reached on 703-308-6602. The fax phone numbers for the organization where this application or proceeding is assigned are 703-872-9314 for regular communications and 703-872-9314 for After Final communications.

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Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-305-9600.

Toan D. Nguyen
Toan D. Nguyen